

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 559

BY SENATORS TRUMP, DEEDS, MAYNARD, AND

WOODRUM

[Introduced February 03, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating
2 to spousal privilege; and expanding the exceptions to spousal privilege to exclude
3 therefrom cases in which the offense at issue was committed against any child rather than
4 a child of one or both spouses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. COMPETENCY OF WITNESSES.

§57-3-3. Testimony of husband and wife in criminal cases.

1 In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence
2 governing other witnesses, may be compelled to testify ~~in~~ on behalf of each other, but neither
3 shall be compelled, nor, without the consent of the other, allowed to be called as a witness against
4 the other except in the case of a prosecution for an offense committed by one against the other,
5 or against the child, father, mother, sister or brother of either of them or any child. The failure of
6 either husband or wife to testify, however, shall create no presumption against the accused, nor
7 be the subject of any comment before the court or jury by anyone.